

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
)	
Application of:)	
)	
Veronique FERRARI)	Group Art Unit: 1611
)	
Application No.: 10/502,447)	Examiner: Haejin S. Park
)	
35 U.S.C. § 371 date: March 7, 2005)	
)	Confirmation No.: 3679
For: COMPOSITION CONTAINING A)	
SEMI-CRYSTALLINE POLYMER)	
AND A VOLATILE OIL)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION UNDER 37 C.F.R. § 1.132

I, **Frédéric Auguste** do hereby make the following declaration:

1. I am a french citizen, residing at Chevilly Larue
2. I have earned a degree in Physical chemistry at Bordeaux 1.
3. I have been employed by L'ORÉAL since 16 years and I am presently a lab manager.
4. During my employment at L'ORÉAL, I have been engaged in research and development regarding cosmetic products.

5. Given my education and experience, particularly in the area of lip makeup products, I consider myself able to provide the following testimony based on experiments conducted by me or under my supervision.

COMPARATIVE EXPERIMENTS

6. Comparative testing was performed between a composition made with a mixture of side chain crystallizable semi-crystalline polymers, according to the presently amended claims, and a comparative composition made with main chain crystallizable semi-crystalline polymer in order to demonstrate the difference in the transfer properties between these different compositions.

I. Preparation of the compositions

7. Lipstick compositions were prepared as follows:

Compounds	Composition 1 according to the present claims.	Composition 2 (Comparative)
Behenyle polyacrylate (polymer of example 3 of the patent application)	9	-
Stearyle polyacrylate (polymer of example 1 of the patent application)	9	-
ENGAGE 8400 (ethylene/octene copolymer)	-	18
Brown Iron Oxydes	6	6
Hydrogenated Polyisobutene (from NOF Corporation)	26	26
Isododecane	50	50
Total	100	100

- The two compositions were prepared according to the following method: the semi-crystalline polymer or semi-crystalline polymer mixture was added to a pan and heated to 98°C to melt it. A mixture of crushed pigments and Parleam oil were added to the pan and mixed until homogeneous. Isododecane was then added in the pan and mixed until homogenous. The mixture was then poured into a mold.
- In composition 1 the semi-crystalline polymer mixture contains side chain crystallizable polymers according to the present claims.
- In comparative composition 2 the semi-crystalline polymer is a main chain crystallizable polymer.

II. Testing Procedure

8. Two sponges were heated at 39°C for 30 minutes. The two different compositions were applied on the sponges with a brush (each formula was applied on a different sponge) and allowed to dry for 5 minutes on the heating plate. All compositions (compositions directly applied as Reference or compositions applied after a transfer) were applied on the same gridded sheet of paper.

9. Each sponge was fixed on an anvil, and then, a pressure of 2.5 kg was exerted during 30 seconds with a dynamic press on a white paper sheet.

III. Detailed transfer value calculation protocol

10. The Minolta Chroma Meter CR-300 spectrophotometer was used to measure the color of the compositions applied on a white virgin paper sheet in the L a b color space. In this color space L indicates lightness and a and b are the chromaticity coordinates, with a being the value on the red-green direction, and b being the value on the blue-yellow direction.

11. First the L a b of the white virgin paper sheet wherein the compositions are intended to be applied was measured. The obtained value is L_{bk} a_{bk} b_{bk} (where "bk" denotes blank paper).

12. Then the value corresponding to the each lipstick directly applied on the white virgin paper sheet was measured: this value corresponds to L_R a_R b_R . (Note that "R" indicates a reference value)

13. Finally, the transfer of the each composition on the paper sheet was measured. This measure corresponds to L_T , a_T , b_T ("T" represents the transfer measurement).

14. The percentage ratio between a composition directly applied on the white virgin paper sheet and the same composition applied on a sponge and transferred on the same white virgin paper sheet was calculated using the following formula.

$$\frac{\sqrt{(L_R - L_{bk})^2 + (a_R - a_{bk})^2 + (b_R - b_{bk})^2}}{\sqrt{(L_T - L_{bk})^2 + (a_T - a_{bk})^2 + (b_T - b_{bk})^2}} \times 100$$

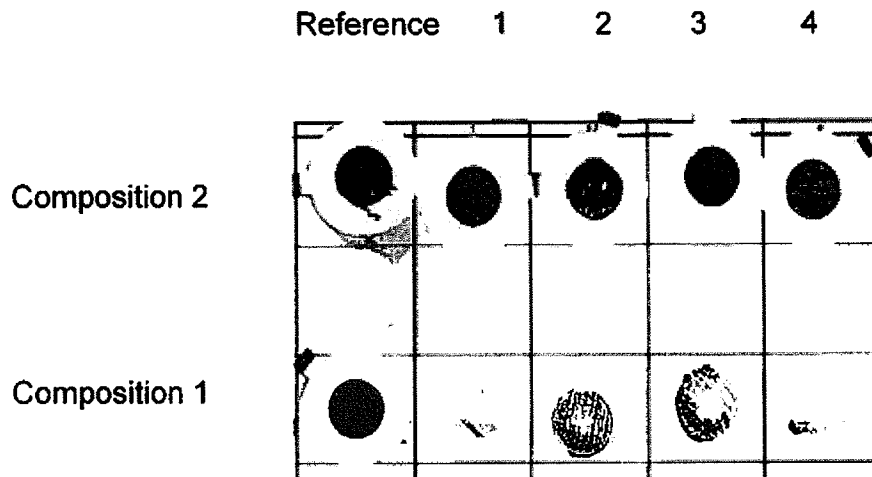
0% corresponding to "no transfer" of the composition onto the paper and

100 % corresponding to the complete transfer of the composition onto the paper.

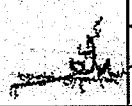
III. Results

15. Visual Results: For each composition to be tested (composition 1 according to the invention and comparative composition 2), one measure of the composition was directly applied on the paper ("Reference"), and four transfers of the composition were tested, corresponding to four transfer measures . A photograph of papers to which the compositions were transferred is shown below.

16. To prevent damage of the spectrophotometer the samples where the lipstick was directly applied to the paper (Reference) as well as those with substantial transfer of lipstick were protected with autoadhesive paper rings placed around the place of transfer.



18. Quantitative results: For each sample the percentage ratio between a composition directly applied on the white virgin paper sheet and the same composition applied on a sponge and transferred on the same white virgin paper sheet was calculated and is presented in the table below, which also shows the average.

Formula	Composition 1 (according to the present claims)	Comparative Composition 2 (containing Engage 8400)
	25	94
	40	86
	35	100
	30	90
Transfer value average	33	93

19. Comparative composition 2, using main chain crystallizable semi-crystalline polymer, underwent a 93% transfer rate. In contrast, composition 1, using side chain crystallizable semi-crystalline polymers according to the present claims, exhibited transfer rates of only 33%.

Conclusion

20. Based on my experience in lip make up products, it is my opinion that one of ordinary skill would not have expected that the use of compositions containing side chain crystallizable semi-crystalline polymers would result in substantially preventing the final composition from transferring onto other surfaces.

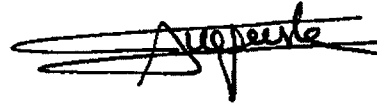
21. The qualitative differences in this declaration are of the type used on a regular basis by L'Oréal to draw distinctions between different compositions.

22. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of

Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated 17th of May 2011

By:

A handwritten signature in black ink, appearing to read "Supreme", written over two horizontal lines.